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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/617,433	07/14/2000	Shoji Yasuda	2870-0137P	5348

7590 06/24/2002
Birch Stewart Kolasch & Birch LLP
P O Box 747
Falls Church, VA 22040-0747

EXAMINER

CHEA, THORL

ART UNIT	PAPER NUMBER
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1752

DATE MAILED: 06/24/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/617,433

Applicant(s)

YASUDA, SHOJI

Examiner

Thorl Chea

Art Unit

1752

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 June 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: _____

Claim(s) withdrawn from consideration: _____

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____

Thorl Chea
Primary Examiner
Art Unit: 1752

Continuation of 5. does NOT place the application in condition for allowance because: of the reason set forth in the final office action. The argument with respect to the process of making non-photosensitive fatty acid silver salt are related to the claimed of a material by a process. The applicants fail to provide a convincing evidence showing that the non-photosensitive fatty acid silver salt made by the claimed process are patentably distinct from that disclosed in the applied prior art of record. There is no statement in the specification disclosure to show whether the non-photosensitive organic silver salt made by the claimed process is patentably distinct or unobvious from that of the EP'701 such as asserted by the applicants'counsel. There are no direct comparisons between the material taught in the EP'071 and that of the present invention presented in the specification disclosure. The claimed invention is not related to only the claiming of non-photosensitive fatty acid silver salt, but a thermally processed image forming material which contains different kinds of additives that affect the property of the material. Therefore, the properties of the non-photosensitive fatty acid silver salt in the material cannot be determined. Counsel's arguments cannot take the place of evidence. In re Greenfield, 571 F. 2d 1185, 197 USPQ 227 (CCPA 1978). Accordingly, it is believed that the rejection is still proper and should be maintained. .